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7 Attorneys for Defendant JUDGE ROBERT ATACK
 8 (erroneously named as JUDGE ROBERT ATTACK)

9 IN THE UNITED STATES DISTRICT COURT

10 FOR THE NORTHERN DISTRICT OF CALIFORNIA

11 SAN JOSE DIVISION

12 **BEVERLY THORP,**

13 Plaintiffs,

14 v.

15 **JUDGE ROBERT ATTACK, et al.,**

16 Defendants.

17 **Case No. C08-01449 JF**

18 **JUDGE ROBERT ATACK'S OBJECTION
 19 TO PLAINTIFF'S NOTICE OF MOTION
 20 FOR SUMMARY JUDGMENT AND
 21 "REBUTTAL AND OBJECTIONS" TO
 22 DEFENDANT'S MOTION TO DISMISS**

23 On or about June 10, 2008, plaintiff filed pleadings styled as "Notice of Motion, a Motion
 24 for Summary Judgment, and a Memorandum of Points and Authority [sic]" and "Rebuttal and
 25 Objections To Defendant's Motion to Dismiss" (Docket Nos. 20 & 18, respectively).

26 Plaintiff's "Notice of Motion, a Motion for Summary Judgment, and a Memorandum of
 27 Points and Authority [sic]" purports to notice a motion for summary judgment to be heard on
 28 June 20, 2008. Defendant Judge Robert Atack hereby objects to the timeliness of this notice of
 hearing in that it fails to provide adequate notice as required by Civil Local Rule 7-2(a).

29 Plaintiff's "Rebuttal and Objections To Defendant's Motion to Dismiss" is essentially an
 30 opposition to Judge Atack's motion to dismiss which is set to be heard on June 20, 2008. Judge
 31 Atack hereby objects to the timeliness of plaintiff's "Rebuttal and Objections" in that it was filed
 32 less than twenty-one (21) days prior to the hearing date and fails to comply with Civil Local Rule

1 7-3(a). Although she tries to phrase her argument in different language, plaintiff's "Rebuttal and
2 Objections" supports Judge Attack's position that plaintiff is asking the Court to review state
3 court decisions (Plaintiff's "Rebuttal and Objections," 2:23-27; 3:7-10)(Plaintiff's Motion for
4 Summary Judgment, 5:4-19). Thus, Judge Attack reasserts the arguments set forth in his moving
5 papers and respectfully requests this Court grant his motion to dismiss any and all of plaintiff's
6 claims for relief against him.

7 Dated: June 18, 2008.

8 Respectfully submitted,

9 EDMUND G. BROWN JR.
10 Attorney General of the State of California

11 PAUL T. HAMMERNESS
12 Supervising Deputy Attorney General

13
14 s/s/ Troy B. Overton
15 TROY B. OVERTON
16 Deputy Attorney General

17 Attorneys for Defendant JUDGE ROBERT ATACK
18 (erroneously named as JUDGE ROBERT ATTACK)

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DECLARATION OF SERVICE BY OVERNIGHT COURIER

Case Name: **THORP, Beverly v. Judge Robert Atack**

No.: **C 08-01449-JF**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter; my business address is: 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102-7004.

On June 18, 2008, I served the attached **JUDGE ROBERT ATACK'S OBJECTION TO PLAINTIFF'S NOTICE OF MOTION FOR SUMMARY JUDGMENT AND "REBUTTAL AND OBJECTIONS" TO DEFENDANT'S MOTION TO DISMISS** by placing a true copy thereof enclosed in a sealed envelope with the **United States Postal Express Mail**, addressed as follows:

Beverly Thorp
P. O. Box 2070
Sunnyvale, CA 94087

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on June 18, 2008, at San Francisco, California.

Rosalinda F. Asuncion

Declarant

s/s/ Rosalinda F. Asuncion

Signature